SUPPLEMENTAL BASIS STATEMENT
CHAPTER 118 GASOLINE DISPENSING FACILITIES VAPOR CONTROL
JANUARY 6, 2011

Commenters

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General

1. Comment: Many of the proposed amendments are aimed at addressing the inconsistencies that currently exist between Maine's ground-level ozone State Implementation Plan (SIP) and Maine state legislation regarding Stage II vapor recovery. Therefore, once these amendments are adopted, Maine should submit the revised Chapter 118 to EPA as a SIP revision.

Since Maine is in the Ozone Transport Region, this SIP revision should demonstrate how, considering these Chapter 118 revisions, Maine will meet the Stage II or comparable measures requirement of Section 184(b)(2) of the Clean Air Act. In addition, since Maine's Stage II vapor recovery program is included in the maintenance plan EPA approved on December 11, 2006 (71 FR 71489), this SIP revision will need to contain the necessary amendments to that plan. Such amendments should be subject to the appropriate public comment procedures. (commenter 4)

Response: The Department will submit Chapter 118 to EPA as a SIP revision and provide comparable measures to address the shortfall in VOC reductions from the elimination of the Stage II vapor recovery program.

2. Comment: EPA supports the Maine DEP in requiring the installation and testing of pressure/vacuum (P/V) vent caps on all gasoline dispensing facilities with a throughput of 10,000 gallons per month or greater. Similar requirements are in place in other New England States (e.g., Massachusetts, Rhode Island, and Connecticut.)

The VOC reductions from the P/V vent cap measure will help the DEP to make up the shortfall in VOC reductions in Maine's SIP resulting from the termination of the State's Stage II vapor recovery program. In addition, there are air toxics benefits from including all facilities with a throughput of 10,000 gallons per month or greater in the P/V vent cap measure.

Furthermore, EPA has proposed to strengthen the ozone standard to a level within the range of 0.060 to 0.070 parts per million (ppm). Several areas in Maine are currently not meeting the proposed levels of the standard. A final standard is expected by December 31, 2010. The P/V vent cap VOC reductions would be beneficial in Maine's efforts to meet a revised ozone standard. (commenter 4)

Response: The Department decided not to require P/V vent valves on gasoline dispensing facilities with a throughput of 10,000 – 100,000 gallons per month at this time. The Department will address the VOC shortfall with other measures to be determined. The Department may, however, revisit this option as part of a strategy to meet the revised ozone standard EPA expects by December 31, 2010. The Department will prepare a SIP revision at a later date detailing the measures Maine will use to meet the new ozone standard.

3. Comment: As a store owner with 3 gas pumps, he would like it known that any changes to any law or any additional requirements are unwarranted and very frustrating. The continued addition to laws requiring more maintenance or more yearly testing is costly and unnecessary. (commenter 1)

Response: See response to comment #2.

4. Comment: The Department should make sure whatever amendments, specifically the installation of pressure/vacuum vents, it makes to the rule is not undone at a later time like the Stage II vapor recovery installation requirement and then its subsequent removal. Please think about how unfunded mandates impact small business, especially in regards to expense. (commenter 3)

Response: The Department decided it is not requiring P/V vents on gasoline dispensing facilities with a throughput of 10,000 – 100,000 gallons per month at this time. Also, see response to comment# 2.

5. Comment: The proposed rule imposes serious costs and unnecessary burdens on the gasoline distributors throughout the state. We recommend that the Board only adopt the sections that repeal State II and those that adopt the federally required changes to Stage I (those added requirements to stations that throughput 100,000 gallons per month or more). We urge the Board not to adopt those sections adding additional costs and regulations. (commenter 5)

Response: See response to comment #2.

Standards for Stage I Vapor Balance System

6. Comment: Section 4(A) states that the submerged fill pipe must extend to within 6 inches of the tank bottom. Crompco suggests that the Department clarify where the 6 inches is measured from since drop tubes are typically cut at a 45 degree angle at the bottom of the tube. Some owners/inspectors/service techs will measure the 6 inches from the top of the cut, others will measure from the bottom of the cut. It's our belief that the intent of the rule (both Federal and State) is to prevent vapors from escaping through the drop tube so the 6 inch measurement should be taken from the top of the cut on the drop tube, not the bottom of the cut. The Department should clarify this in the rule so that there is no misunderstanding of where the measurement should be taken. This would provide consistency between owners, those inspecting and those installing these drop tubes in the underground tank system. (commenter 2)

Response: The Department acknowledges that the six inch drop tube measurement may lead to differences in interpretation of where the measurement should be taken; however, because EPA is addressing this issue in the proposed changes to the gasoline NESHAPS for those stations with a monthly throughput greater than 10,000 gallons, no change to Chapter 118 will be made at this time.

7. Comment: In Section 4(B)(2), use the same interpretation as 4(A) for measuring the 6 inch drop tube measurement. (commenter 2)

Response: See response to comment #6.

8. Comment: In Section 4(C)(2), clarify that poppetted coaxial vapor recovery is allowed at existing facilities only. New facilities (post 1/10/08 – per 40 CFR Part 63 Subpart CCCCCC) would not be allowed to be coaxial. The NESHAP rule specifically states in Table 1 that new or reconstructed facilities must be dual point for facilities with throughputs greater than 100,000 gallons per month. Crompco suggests that all new or reconstructed facilities no matter what the throughput employ a dual point Stage 1 vapor recovery system. It is also considered an industry best practice to utilize dual point Stage 1 vapor recovery over a coaxial Stage 1 system. (commenter 2)

Response: The Department agrees and has deleted this from the rule.

9. Comment: Section 4(D): This section is an expansion of federal law and will now require almost all of the stations in Maine to install a PV vent and test accordingly. Federal law does not require this for this size station. The cost is difficult to anticipate as the testing procedure may exhibit failures and require very expensive retrofits of equipment. The installation of the PV itself may only be about $300 but it is for all stations. This is the section the Department claims is necessary to prevent backsliding and was not part of the DEP testimony at the time of the repeal of Stage II in the legislature. Hundreds of thousands and perhaps millions of additional unnecessary dollars will be wasted for a tiny if not immeasurable amount of vapor capture. (commenter 5)

Response: See response to comment #2.

10. Comment: Section 8(A) testing for Stage I: This is not a requirement under federal law. This is an expansion of Maine law and will cost all gasoline stations significant money to comply. On-board canisters will render all of this unnecessary if it has not already as the Maine auto fleet retires. Millions of dollars spent, especially for hard hit small mom and pop stations for a short term tiny emissions hole is not justified. (commenter 5)

Response: The P/V valve installation is no longer proposed as part of this rulemaking; therefore, the P/V Cap Test requirement is deleted for those stations with a monthly throughput of 10,000-100,000 gallons. Gasoline dispensing facilities with a monthly throughput greater than 100,000 gallons are required to perform a P/V Cap Test as part of the NESHAPS requirements.

Testing for Stage I and Stage II Vapor Recovery Systems

11. Comment: In Section 8(A)(1), Crompco feels that it would be extremely important for P/V valves to be tested on an annual basis instead of a 3-year interval. The P/V valve is unprotected, subject to weather and the elements all year round and is the only line in defense of fugitive emissions from gasoline UST systems. If the P/V valve is not functioning properly, there will be excess emissions during every delivery for months or even years until the next functional test. Crompco tests thousands of P/V valves every year and fails and replaces a substantial number of them. There is no known life expectancy of a P/V valve and understanding that it is a critical component of the system to retain vapors in the UST and preventing them from being released to the atmosphere, this component should be inspected and tested more frequently than 3 years. Crompco feels that an annual functional test of the P/V valve is not only necessary, but it is not a costly burden for an owner on an annual visit. In addition, P/V valves should have a direct threaded connection to the vent stack. Unthreaded connections should not be considered proper installation of a P/V valve. (commenter 2)

Response: See response to comment #2.

12. Comment: The commenter believes the three year testing interval required in Section 8(A) is too infrequent. Repairs are routinely required to pass a pressure decay test at nearly every facility, even with annual testing. A six month testing interval is more appropriate. A three year testing interval will allow equipment to deteriorate to the point where vapors are freely escaping into the atmosphere. (commenter 6)

Response: See response to comment #2.

13. Comment: In Section 8(A)(2), Crompco feels that the pressure decay test is a critically important test of the UST system's ability to maintain vapor tightness. The many deliveries made to the gasoline UST may loosen fittings and allow for vapors to escape from the system. Crompco feels that an annual pressure decay test is warranted for all facilities with throughputs greater than 10,000 gallons per month. The 3-year interval for testing allows for too long of a window for a system that is not vapor tight to go unchecked. Crompco finds that gasoline UST systems that undergo an annual pressure decay test are in better operating condition than those that are tested less frequently (every 3 years or 5 years as some states require). (commenter 2)

Response: The Department is not requiring any testing more stringent than that required by the federal NESHAPS rule; testing every three years for those stations with a throughput greater than 100,000 gallons per month.

14. Comment: Crompco strongly agrees that testing should be performed during normal business hours for the safety of person conducting the tests and encourages the Department to regularly observe tests to ensure their quality. (commenter 2)

Response: The Department appreciates the comment.

15. Comment: Crompco agrees with the Department's decision to implement CARB TP 201.3 (the 2" pressure decay test) and move away from a 10" pressure decay test because there will be less emissions due to testing activities. A 2" pressure decay test also allows for the system to be tested in its normal operating condition. (commenter 2)

Response: The Department appreciates the comment.

16. Comment: Section 3(B)(F) and 8(B): The commenter is unclear as to why the Department is adopting new Stage II requirements in this rule given that Stage II is being repealed. We do not support the new Stage II requirements and see no reason for incorporating them into the rule. Is the Department seeking to require existing Stage II facilities to update their equipment for only 1 year? Stage II is repealed in 2012. (commenter 5)

Response: It is not the Department's intent to adopt new Stage II requirements, but rather to update the test methods in the rule to those currently being used.

Appendix A

17. Comment: In Appendix A, Requirements for Discontinuing the Use of a Stage II Vapor Recovery System, #4 states that the system shall be pressurized to 10" water column pressure and the allowable drop to be determined using the CARB TP 201.3 test procedure. The CARB TP 201.3 test is based on a 2" water column test and should not be used to determine an allowable pressure drop from 10" water column pressure. If a 10" test is going to be required, then a 10" pressure drop chart should be used to determine the pass/fail criteria. Crompco suggests that the CARB TP 201.3 test procedure be followed and table 1B column 1-6 be used for all decommissioning pressure decay tests. (commenter 2)

Response: The Department agrees that the CARB TP 210.3 test procedure should not be used to determine an allowable pressure drop from 10" water column pressure. Testing currently uses a 10" test and the Department believes for consistency that the 10" test should be used when discontinuing a Stage II vapor recovery system. The Department has amended Appendix A to include the San Diego Test Procedure TP 91-1 Pressure Decay/Leak Test Procedure for comparing the final pressure to the allowable pressure drop. The Department added some other clarifying language and a reference to the NESHAPS (Appendix A, # 8) requiring the installation of swivel adaptors or equivalent adaptors on those stations exceeding the 100,000 gallon per month threshold.